

AMENDED IN SENATE JUNE 11, 2002
AMENDED IN ASSEMBLY JANUARY 8, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1108

Introduced by Assembly Member Pavley
(Coauthor: Senator Kuehl)

February 23, 2001

An act to amend Section 21083.9 of, *and to add Section 21098 to*, the Public Resources Code, relating to environmental protection.

LEGISLATIVE COUNSEL'S DIGEST

AB 1108, as amended, Pavley. Environmental quality: scoping meetings: *military areas*.

(1) The existing California Environmental Quality Act (*CEQA*) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (*EIR*) on any project that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds the project will not have that effect. *CEQA* also requires a lead agency to call at least one scoping meeting for a project of statewide, regional, or areawide significance. The existing federal National Environmental Policy Act and existing federal regulations ~~authorizes~~ *authorize* a lead agency to hold a scoping meeting, and permit that meeting to be integrated with any other early planning meeting the agency holds on a project that is subject to the federal act.

This bill would exempt any ~~lead agency that has held a scoping meeting pursuant to the federal authorization~~ *project for which a public*

meeting has already been conducted pursuant to the NEPA from the state scoping meeting requirement, if interested and affected parties were invited and provided notice of that meeting. The bill would also impose additional requirements on a lead agency, if the United States Department of Defense or a military service, as defined, notifies that lead agency of the specific boundaries of a low-level flight path, military impact zone, or special use air space, as those terms are defined by the bill. The bill would require the lead agency notified of those boundaries, if that lead agency determines that the preparation of an EIR is required for a project that involves or affects a low-level flight path, military impact zone, or special use air space, to notify the military service of the involvement or effect, provide the military service an opportunity to comment, and to review and respond to any comments submitted by the military service. The bill would prohibit the notified lead agency adopting a negative declaration or a mitigated negative declaration for any project within a military impact zone unless that lead agency considers whether the project will result in adverse impacts on military readiness activities, as defined, within a military impact zone, special use air space, or low-level flight path within its jurisdiction prior to adopting the negative declaration or mitigated negative declaration. The bill would also prohibit a notified lead agency from relying upon, or utilizing the existence of, habitat or conservation programs on adjacent military installations to mitigate that impact, unless the project is subject to a habitation conservation plan or a natural community conservation plan. By imposing additional duties on local lead agencies, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~ yes.



The people of the State of California do enact as follows:

SECTION 1. Section 21083.9 of the Public Resources Code is amended to read:

21083.9. (a) Notwithstanding Section 21080.4, 21104, or 21153, a lead agency shall call at least one scoping meeting for any of the following:

(1) A proposed project that may affect highways or other facilities under the jurisdiction of the Department of Transportation if the meeting is requested by the department. The lead agency shall call the scoping meeting as soon as possible, but not later than 30 days after receiving the request from the Department of Transportation.

(2) A project of statewide, regional, or areawide significance.

(b) The lead agency shall provide notice of at least one scoping meeting held pursuant to paragraph (2) of subdivision (a) to all of the following:

(1) Any county or city that borders on a county or city within which the project is located, unless otherwise designated annually by agreement between the lead agency and the county or city.

(2) Any responsible agency.

(3) Any public agency that has jurisdiction by law with respect to the project.

(4) Any organization or individual who has filed a written request for the notice.

(c) For any entity, organization, or individual that is required to be provided notice of a lead agency public meeting, the requirement for notice of a scoping meeting pursuant to subdivision (b) may be met by including the notice of a scoping meeting in the public meeting notice.

~~(d) This section does not apply to any lead agency that has held a scoping hearing pursuant to Chapter 55 (commencing with Section 4321) of Title 42 of the United States Code or Section 1501.7 of Title 40 of the Code of Federal Regulations.~~

(d) This section does not apply to a project for which a public meeting already has been conducted pursuant to the National Environmental Policy Act (42 U.S.C. Sec. 4321 et seq.), if interested and affected parties were invited and provided notice of that meeting.

1 SEC. 2. Section 21098 is added to the Public Resources Code,
2 to read:

3 21098. (a) For the purposes of this section, the following
4 terms have the following meanings:

5 (1) “Low-level flight path” includes any flight path for any
6 aircraft owned, maintained, or that is under the jurisdiction of the
7 United States Department of Defense that flies lower than 1,500
8 feet above ground level, as indicated in the United States
9 Department of Defense Flight Information Publication “Area
10 Planning Military Training Routes: North and South America
11 (AP/IB)” published by the United States National Imagery and
12 Mapping Agency.

13 (2) “Military impact zone” includes any area, including
14 airspace, that meets both of the following criteria:

15 (A) Is within two miles of a military installation, including, but
16 not limited to, any base, camp, post, station, yard, center, homeport
17 facility for a ship, or any other military activity center that is under
18 the jurisdiction of the United States Department of Defense.

19 (B) Covers greater than 500 acres of unincorporated land, or
20 greater than 100 acres of city incorporated land.

21 (3) “Military readiness activities” include, but are not limited
22 to, the training, support, and operations of military service
23 members for combat, operation, maintenance, and security of any
24 military installation, and the testing of military equipment
25 including, but not limited to, vehicles, weapons, and sensors to
26 determine proper operation or suitability for combat use.

27 (4) “Military service” means any branch of the United States
28 Armed Forces.

29 (5) “Special use airspace” means the land area underlying the
30 airspace that is designated for training, research, development, or
31 evaluation for a military service, as that land area is established
32 by the Department of Defense Flight Information Publication
33 “Area Planning: Special Use Airspace: North and South
34 American (AP/IA)” published by the United States National
35 Imagery and Mapping Agency.

36 (b) If the United States Department of Defense or a military
37 service notifies a lead agency of the specific boundaries of a
38 low-level flight path, military impact zone, or special use air
39 space, all of the following apply to that lead agency:

1 (1) If a lead agency determines, pursuant to Section 21080.1,
2 that the preparation of an environmental impact report is required
3 for a project that involves or affects a low-level flight path, military
4 impact zone, or special use air space, the lead agency shall do both
5 of the following:

6 (A) Notify the military service of the involvement or effect.

7 (B) Provide the military service an opportunity to comment.

8 (C) Review and respond to any comments submitted by the
9 military service.

10 (2) A lead agency may not adopt a negative declaration or a
11 mitigated negative declaration for any project within a military
12 impact zone unless that lead agency considers whether the project
13 will result in adverse impacts on military readiness activities
14 within a military impact zone, special use air space, or low-level
15 flight path within its jurisdiction prior to adopting the negative
16 declaration or mitigated negative declaration.

17 (3) (A) If a lead agency determines that a project may
18 adversely impact a species listed as threatened or endangered
19 pursuant to the California Endangered Species Act (Chapter 1.5
20 (commencing with Section 2050) of Division 3 of the Fish and
21 Game Code) or the federal Endangered Species Act (16 U.S.C.
22 Sec. 1531 et seq.), the lead agency may not rely upon, or utilize the
23 existence of, habitat or conservation programs on adjacent
24 military installations to mitigate that impact.

25 (B) This paragraph (3) does not apply to any project that is
26 subject to a habitation conservation plan or a natural community
27 conservation plan adopted pursuant to Chapter 10 (commencing
28 with Section 2800) of Division 3 of the Fish and Game Code.

29 SEC. 3. Notwithstanding Section 17610 of the Government
30 Code, if the Commission on State Mandates determines that this
31 act contains costs mandated by the state, reimbursement to local
32 agencies and school districts for those costs shall be made
33 pursuant to Part 7 (commencing with Section 17500) of Division
34 4 of Title 2 of the Government Code. If the statewide cost of the
35 claim for reimbursement does not exceed one million dollars
36 (\$1,000,000), reimbursement shall be made from the State
37 Mandates Claims Fund.